

Message Text

CONFIDENTIAL

PAGE 01 USBERL 03221 01 OF 02 230942Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 ACDA-12 TRSE-00 /071 W
-----001389 231010Z /10

R 230830Z DEC 77
FM USMISSION USBERLIN
TO SECSTATE WASHDC 5916
AMEMBASSY BONN
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBSSSY PARIS
USMISSION USNATO

C O N F I D E N T I A L SECTION 1 OF 2 USBERLIN 3221

E.O.11652: GDS
TAGS: PGOV, AKB, BWG
SUBJECT: BUNDESANWALT OBERLE

REF: (A) USBERLIN 2557, (B) BONN 13651, (C) USBERLIN 2117

SUMMARY. EACH ALLIED LEGAL ADVISER HAS HAD A SEPARATE, INFORMAL LUNCHEON WITH OBERLE. EACH OF THEM HAS COME AWAY WITH SIMILAR IMPRESSIONS OF OBERLE'S GENERAL PROFESSIONAL COMPETENCE, AS WELL AS HIS UNDERSTANDING OF AND SENSITIVITY FOR ALLIED RESPONSIBILITIES IN BERLIN, AND HIS CLEAR DESIRE TO COOPERATE WITH ALLIES IN PARTICULAR IN THE LORENZ/VON DRENCKMANN TRIAL, AND IN GENERAL ON FRG-ALLIED LEGAL MATTERS. IN SHORT, THEIR FIRST IMPRESSIONS DO NOT REPEAT NOT CONFIRM EYERS' VIEWS REPORTED REFTEL B. END SUMMARY.

1. SHORTLY AFTER HIS APPOINTMENT AS CHIEF OF THE LORENZ/VON DRENCKMANN FEDERAL PROSECUTION TEAM WAS CONFIRMED, OBERLE SOUGHT TO HAVE INFORMAL CONTACT WITH THE ALLIED LEGAL
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USBERL 03221 01 OF 02 230942Z

ADVISERS (REFTEL A). ALLIED LEGAL ADVISERS AGREED TO MEET WITH HIM, BUT DECIDED THAT INITIALLY THEY WOULD DO SO SEPARATELY. BETWEEN 24 OCTOBER AND 21 DECEMBER, THE BRITISH, THEN FRENCH, THEN U.S. LEGAL ADVISER INVITED OBERLE TO A LUNCH.

2. IN THE MINUTE OF HIS MEETING WITH OBERLE, THE

BRITISH LEGAL ADVISER (AUST) NOTED INTER ALIA THAT QUOTE OBERLE APPEARS TO BE AN EASY MAN TO GET ON WITH. HE IS CLEARLY ANXIOUS TO BE AS COOPERATIVE AS POSSIBLE WITH THE ALLIES. UNQUOTE. AND QUOTE HE SAID THAT HE WOULD BE PLEASED TO HAVE HELP FROM THE ALLIED LEGAL ADVISERS WHEN THE QUESTION OF THE RIGHT OF THE FEDERAL PROSECUTOR TO PROSECUTE (IN BERLIN) WAS CHALLENGED (BY DEFENSE COUNSEL). UNQUOTE. ON THE LATTER POINT, AUST RESPONDED THAT SUCH HELP WOULD BE GIVEN ON AN INFORMAL BASIS. AUST ALSO DISCUSSED WITH OBERLE THE NECESSITY FOR DISCRETION IN PRESS STATEMENTS MADE BY THE FEDERAL PROSECUTOR DURING THE COURSE OF THE TRIAL, PARTICULARLY THOSE RELATED TO QUESTIONS OF FRG COMPETENCE IN BERLIN. OBERLE FULLY UNDERSTOOD ALLIED DESIRE THAT PUBLIC HANDLING OF CASE BE DISCREET.

3. WE HAVE NOT RECEIVED WRITTEN REPORT FROM FRENCH LEGAL ADVISER (PEIFFER) ON HIS LUNCHEON WITH OBERLE. HOWEVER, FROM ORAL REPORTS, IT SEEMS PEIFFER-OBERLE LUNCH ONLY BRIEFLY TOUCHED ON LORENZ/VON DRENCKMANN CASE. GENERALLY, OBERLE STRESSED HIS DESIRE TO DEVELOP GOOD CONTACT WITH THE LEGAL ADVISERS IN ORDER TO ESTABLISH A SYSTEM OF EASY, IMMEDIATE ACCESS AND MUTUAL ASSISTANCE ON THE LORENZ/VON DRENCKMANN CASE, AND MORE IMPORTANTLY (TO OBERLE) ON MATTERS IN GENERAL INVOLVING EITHER THE BUNDES-ANWALTSCHAFT IN BERLIN OR FRG-ALLIED BERLIN LEGAL

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USBERL 03221 01 OF 02 230942Z

QUESTIONS. ON THE LAST POINT OBERLE ADVISED PEIFFER THAT HE HOPED TO GO TO BONN IN JANUARY TO SPEAK TO JUSTICE MINISTRY OFFICERS TO SEE IF HE COULD HAVE HIS PORTFOLIO EXPANDED. OBERLE IS OF THE OPINION THAT BERLIN LEGAL ADVISERS SHOULD HAVE A KNOWLEDGEABLE FEDERAL LEGAL OFFICER IN BERLIN WHOM THEY CAN CONSULT QUICKLY AND WHO IS AUTHORIZED TO GIVE THE LEGAL ADVISERS OFFICIAL RESPONSES. APPARENTLY, OBERLE'S CURRENT TERMS OF REFERENCE RESTRICT HIM TO HANDLING APPEALS BEFORE FEDERAL COURTS SITUATED IN BERLIN, AND OF COURSE, DIRECTING THE LORENZ/VON DRENCKMANN PROSECUTION. SPEAKING PERSONALLY, PEIFFER ENDORSED THE IDEA.

4. USBER LEGAL ADVISER (SURENA) LUNCHEONED WITH OBERLE ON 21 DECEMBER. LUNCH WAS ACTUALLY SECOND CONTACT WITH OBERLE, SINCE SURENA HAD MET OBERLE WEEK BEFORE AT A RECEPTION HELD AT KAMMERGERICHT. LUNCHEON WAS EXCEPTIONALLY PLEASANT WORKING MEETING DURING WHICH POINTS COVERED IN PRIOR TWO LUNCHEONS WERE AGAIN COVERED, AS WELL AS OTHERS.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 USBERL 03221 02 OF 02 231004Z
ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 ACDA-12 TRSE-00 /071 W
-----001534 231010Z /11

R 230830Z DEC 77
FM USMISSION USBERLIN
TO SECSTATE WASHDC 5917
AMEMBASSY BONN
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USNATO

C O N F I D E N T I A L SECTION 2 OF 2 USBERLIN 3221

5. IN CONNECTION WITH HIS PROPOSAL TO BROADEN HIS
TERMS OF REFERENCE, OBERLE MENTIONED THE DIFFICULTIES
HE HAD ENCOUNTERED IN EXPLAINING TO BUNDESANWAELTE IN
KARLSRUHE AND JUSTICE MINISTRY PERSONNEL IN BONN THE
SPECIAL LEGAL SITUATION IN BERLIN. THEY OFTEN INSISTED,
HE REPORTED, IN REGARDING BERLIN AS A LAND OF THE FRG,
IRRESPECTIVE OF ALLIED RESERVATIONS. UNDER SUCH CIRCUMSTANCES,
OBERLE OPINED THAT DISCUSSION OF FEDERAL ALLIED LEGAL MATTERS IN THE
BONN GROUP WAS BOUND TO LEAD TO CONFUSION OR MISUNDERSTANDINGS
SINCE THE BONN GROUP REP, WHO WOULD PROBABLY NOT BE PERSONALLY EXPERT
ON THE TECHNICAL LEGAL ISSUES, WOULD BE CONVEYING THE ANALYSES AND
OPINIONS OF FEDERAL LEGAL OFFICERS WHO ARE UNAWARE OF,
UNSYMPATHETIC TO OR EVEN HOSTILE TO ALLIED RIGHTS AND
RESPONSIBILITIES IN BERLIN.

6. DISCUSSION OF THIS PROPOSAL LED TO BRIEF DISCUSSION
ON A NUMBER OF FRG-ALLIED LEGAL CONCERNS, E.G. NATURE
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USBERL 03221 02 OF 02 231004Z

OF FEDERAL LAW ONCE EXTENDED TO BERLIN, RECHTSEINHEIT (LEGAL UNITY), (IN) COMPETENCE OF BUNDESVERFASSUNGS-GERICHT OVER BERLIN, ARMING OF OBERLE, HIS FELLOW BUNDESANWAELTE AND KAMMERICHT JUDGES. OBERLE EXHIBITED GOOD KNOWLEDGE OF ALLIED LAW, RESERVATIONS AND LEGAL THEORY ON THESE MATTERS, AND ALSO EXHIBITED UNDERSTANDING OF THEIR COMPLEX INTERACTION. IN PARTICULAR, HE ACCEPTED USBER LEGAL ADVISER VIEW THAT IF ONE WISHES THE TERM RECHTSEINHEIT TO HAVE A PRACTICAL MEANING, ONE MUST DEFINE IT AS PERMITTING THE SAME LEGAL SITUATION TO OBTAIN IN BERLIN AS OBTAINS IN THE FRG SO LONG AS THERE IS NO CONFLICT WITH ALLIED RIGHTS AND RESPONSIBILITIES; HE ALSO ACKNOWLEDGED THE COROLLARY THAT THE ARGUMENT THAT RECHTSEINHEIT IS INJURED BY ALLIED PREVENTION OF EXTENSION TO BERLIN OF AN FRG LAW ON GROUNDS THAT LAW CONFLICTS WITH ALLIED RIGHTS AND RESPONSIBILITIES IS MEANINGLESS ARGUMENT. WHILE OBERLE UNDERSTOOD THESE POINTS, HE NONETHELESS REFLECTED THE VIEW THAT THE LEGAL AND PSYCHOLOGICAL WELFARE OF BERLIN CALLED FOR THE EXERCISE OF SUCH ALLIED AUTHORITY ONLY IN RARE AND NECESSARY CIRCUMSTANCES.

7. DURING THE COURSE OF LUNCHEON, OBERLE ALSO ALLUDED TO PIELUZEK CASE (REFTEL B). REFERENCE WAS IN CONTEXT OF NEED FOR GOOD LINES OF COMMUNICATION WITH THE ALLIES; LINES WHICH HE, PERSONALLY, DID NOT HAVE IN 1974, AND WHICH HE BELIEVED CONTRIBUTED TO MISUNDERSTANDINGS AND DELAYS IN PIELUZEK MATTER.

8. IN CONCLUSION, OBERLE EXPRESSED HIS APPRECIATION TO SURENA THAT ALLIED LEGAL ADVISERS HAD MET WITH HIM, AND INDICATED THAT ONCE TRIAL IS IN PROGRESS (FEBRUARY 1978?), HE WILL KEEP US INFORMED, IN GENERAL, AND SEEK OUR COUNSEL ON MATTERS OF ALLIED INTEREST.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USBERL 03221 02 OF 02 231004Z

9. COMMENT: BASED ON INITIAL CONTACTS OF ALL ALLIED LEGAL ADVISERS WITH OBERLE, WE MUST CONCLUDE THAT EITHER EYERS' ANALYSIS OF OBERLE WAS INCORRECT OR OBERLE HAS IMPROVED RADICALLY HIS KNOWLEDGE OF BERLIN STATUS ISSUES. HOWEVER, EYERS ALSO DESCRIBED HIM AS "INFLEXIBLE, RIGID, UNIMAGINATIVE AND ALTOGETHER UNIMPRESSIVE." AT THIS POINT, WE WOULD DISPUTE THAT EVALUATION. OBERLE GAVE US EVERY REASON TO BELIEVE HE WILL BE COOPERATIVE. WE SUSPECT THAT IN THE PIELUZEK CASE, OBERLE WAS CONFRONTED WITH TWO CONFLICTING ORDERS (ONE FROM BONN AND KARLSRUHE, THE OTHER FROM THE ALLIES) WHICH HE WAS NOT AUTHORIZED TO RESOLVE ON HIS OWN (THIS, INDEED IS ONE PRINCIPLE HE WISHES TO DISCUSS IN BONN). OBERLE'S APPARENT IGNORANCE OF BK/O(51)63 (WHICH WAS ALLEGED BY EYERS), WHILE LAMENTABLE FOR A FEDERAL OFFICIAL IN BERLIN, IS

NOT A N UNCOMMON CRIME SINCE MOST FEDERAL OFFICIALS SITUATED IN
BERLIN NEVER HAVE ANYTHING TO DO WITH THE ALLIES.

10. STILL, WE CANNOT EVALUATE HIS ABILITY AS A TRIAL
PRACTITIONER OR MANAGER OF ATTORNEYS IN A COMPLICATED
AND LENGTHY TRIAL. TIME AND THE PROGRESS OF THE LORENZ/VON
DRNECKMANN CASE WILL TELL. GEORGE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Sent Date: 23-Dec-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USBERL03221
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770479-0623
Format: TEL
From: USBERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19771219/aaaaaqcz.tel
Line Count: 231
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: d5740efd-c188-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 USBERLIN 2557, 78 BONN 13651, 78 USBERLIN 2117
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 16-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 133634
Secure: OPEN
Status: NATIVE
Subject: BUNDESANWALT OBERLE
TAGS: PGOV, AKB
To: STATE BONN
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/d5740efd-c188-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009